



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

MEMORANDUM FOR: All Community Planning and Development Field
Office Division Directors

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Date: 2023.01.20 11:41:01 -05'00'

FROM: Marion McFadden, Principal Deputy Assistant Secretary, D

SUBJECT: Availability of a Waiver of Community Planning and
Development Grant Program Requirements to Facilitate the
Ability to Incur Pre-Award Costs in FY 2023

PURPOSE:

This memorandum explains the availability of a waiver of certain regulatory requirements associated with two Community Planning and Development (CPD) grant programs to facilitate the continuation of eligible activities and ongoing planning and administrative costs due to a delay by HUD in the receipt of annual appropriations for FY 2023. This memorandum covers the following CPD programs:

- Community Development Block Grant (CDBG), and
- HOME Investment Partnerships (HOME)

BACKGROUND:

The President signed the Consolidated Appropriations Act, 2023 (the "FY23 Omnibus") on December 29, 2022. HUD is issuing procedures to govern the submission and review of action plans for FY 2023 upon enactment of the FY23 Omnibus. Grantees are advised to not submit a consolidated plan or action plan until the FY 2023 formula allocations have been announced, which HUD expects to be no later than February 27, 2023. However, an action plan must be submitted to HUD no later than August 16, 2023.

The delay in the receipt of annual appropriations by HUD and implementation of these procedures for FY 2023 may have negative consequences for CDBG and HOME grantees that intend to incur eligible costs prior to the award of FY 2023 funding. Some activities might otherwise be interrupted, and grantees might not otherwise be able to use CDBG or HOME funds for planning and administrative costs of administering their programs.

NOTIFICATION PROCESS:

This waiver will apply to any Entitlement, Insular or Hawaii non-entitlement CDBG grantee or to any HOME participating jurisdiction whose program year start date for FY 2023 funding occurs during the period starting January 1, 2023, and ending October 1, 2023, or 60 days after HUD announcement of FY 2023 allocation amounts for formula program funding (whichever comes first). This waiver is available for use by any applicable CDBG grantee or HOME participating jurisdiction whose action plan submission is delayed past the normal submission date because of delayed enactment of FY 2023 appropriations for the Department. Any affected grantee or participating jurisdiction taking advantage of this waiver shall document in writing the conditions giving rise to the need to use this waiver and shall maintain such documentation for HUD's review. This waiver authority is only in effect until August 16, 2023.

WAIVER AUTHORITY:

Without this waiver, some activities might be interrupted while implementing these procedures. In addition, grantees and participating jurisdictions might not otherwise be able to use CDBG and HOME funds for ongoing planning and administrative costs of administering their programs. To address communities' needs and to ensure that programs can continue without disturbance, I find that good cause exists pursuant to 24 CFR 5.110 to waive the CPD program regulatory requirements set forth below.

WAIVER AVAILABILITY:

1. Pre-award Costs

Requirement: The effective date of the grant agreement is the program year start date or the date that the consolidated plan is received by HUD, whichever is later. These dates determine when a grantee may incur pre-award costs. For HOME, eligible administrative and planning costs may be incurred as of the beginning of the program year or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is later.

Citations: 24 CFR 570.200(h) (Entitlement CDBG program, the Insular Areas CDBG program, and for grants to non-entitlement counties in Hawaii) and 24 CFR 92.212(b) (HOME participating jurisdictions).

Explanation: This waiver will allow a grantee or participating jurisdiction to treat the effective date of the grant agreement as the program year start date or the date that the consolidated plan/action plan (with actual allocation amounts) is received by HUD, whichever is *earlier*. HUD waives 24 CFR 92.212(b) to the extent necessary to permit eligible pre-award costs to be incurred as of the beginning of the program year or the date the consolidated plan describing the HOME allocation to which the costs will be charged is received by HUD, whichever is *earlier*.

Justification: HUD recognizes that some activities may be interrupted, and grantees might not otherwise be able to use CDBG and HOME funds for ongoing planning and administrative costs without this waiver.

Applicability: This waiver is in effect until August 16, 2023, and is transmitted with the “Guidance on Submitting Consolidated Plans and Annual Action Plans for Fiscal Year (FY) 2023”.

Finally, I want to express my appreciation for your efforts to support the timely and effective use of CPD funds. Thank you.